



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 30, 1993

Mr. R. Carlton Presley
The University of Texas System
Office of General Counsel
201 West Seventh Street
Austin, Texas 78701-2981

OR93-393

Dear Mr. Presley:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, V.T.C.S. article 6252-17a. Your request was assigned ID# 19973.

The University of Texas System (the "university") has received a request for information in the possession of the university's Counseling and Mental Health Center. Specifically, the requestor seeks information about himself, including his "entire record on file" and "all records pertaining to the MMPI [Minnesota Multiphasic Personality Inventory] test" he took. You advise us that the university has released all of the requested information, with the exception of the interpretive results of the MMPI. You seek to withhold the MMPI results under section 3(a)(1) of the Open Records Act in conjunction with section 5.08 of the Medical Practices Act, V.T.C.S. article 4495b.

Section 5.08 of the Medical Practices Act makes confidential "records of the identity, diagnosis, evaluation, or treatment of a patient by a physician." V.T.C.S. art. 4495b, § 4.08(b). Section 5.08 also governs the release of medical records. *See id.* § 5.08(j), (k). Subsection (k) provides, in pertinent part:

A physician shall furnish copies of medical records requested, or a summary or narrative of the records, pursuant to a written consent for release of the information as provided by Subsection (j) of this section, *except if the physician determines that access to the information would be harmful to the physical, mental, or emotional health of the patient . . .*


Id. § 5.08(k). (Emphasis added). The provisions of the Medical Practices Act, rather than the provisions of the Open Records Act, govern access to records that a physician has created or maintained. *See generally* Open Records Decision 598 (1991). The

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records at issue here are "records of the identity, diagnosis, evaluation, or treatment of a patient by a physician" that a physician has created or maintained; therefore, section 5.08 of the Medical Practices Act governs their release. Accordingly, we conclude that you may release the MMPI results only in accordance with the Medical Practices Act.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,


Kimberly K. Oltrogge
Assistant Attorney General
Opinion Committee

KKO/GCK/jmn

Ref.: ID# 19973
ID# 20133

cc: Mr. Bruce Banner
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